

## Message Text

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ACTION STR-05

INFO OCT-01 ARA-10 NEA-10 IO-13 ISO-00 STRE-00 FEA-01

AGRE-00 CEA-01 CIAE-00 COME-00 DODE-00 EB-08

FRB-03 H-01 INR-07 INT-05 L-03 LAB-04 NSAE-00

NSC-05 PA-01 AID-05 SS-15 ITC-01 TRSE-00 USIA-06

PRS-01 SP-02 OMB-01 XMB-02 OPIC-03 OIC-02 AF-10

EA-10 EUR-12 /148 W

-----097884 292258Z/12

P R 291758Z SEP 77

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 0000

INFO ALL OECD CAPITALS

AMEMBASSY BRASILIA

AMEMBASSY BUENOS AIRES

AMEMBASSY MEXICO

AMEMBASSY NEW DELHI

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USMTN

STR FOR ACTION PASS CODEL

E.O. 11652: N/A

TAGS: MTN, ETRD

SUBJECT: MTN STANDARDS SUBGROUP MEETING, SEPT. 22-28, 1977

REF: GENEVA 7907

1. SUMMARY: SOME PROGRESS ACHIEVED ON DRAFT STANDARDS CODE AND POSITIONS CLARIFIED THROUGH USEFUL INFORMAL WORKING SESSIONS ON FRINGES OF PLENARY MEETINGS. MAJOR PROPOSAL SUBMITTED BY BRAZIL ON SPECIAL AND DIFFERENTIAL TREATMENT FOR DEVELOPING COUNTRIES SPARKED DISCUSSION OF THE NOTION OF LDC GRADUATION IN STANDARDS CODE WHICH INDIA AND BRAZIL

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REJECTED. PRESENT TEXT MEETS REQUIREMENT OF COMPREHENSIVE STANDARDS CODE TO BE ON TABLE BY DECEMBER 15. END SUMMARY.

2. MEETING FORMAT: AT INITIAL PLENARY MEETING OF SUB-GROUP, GATT CHAIRMAN WILLIAMS SUGGESTED, PER REFTEL, THAT INFORMAL CONSULTATIONS BEST WAY TO ACHIEVE PROGRESS ON DRAFT CODE. AS A CONSEQUENCE, FOUR HALF DAY PLENARY SESSIONS WERE DEVOTED

TO A REVIEW OF PROPOSALS FOR MODIFICATION OF CODE  
INCLUDING MAJOR BRAZILIAN PROPOSAL ON S AND D, WHILE INFORMAL  
SESSIONS OCCUPIED THE REMAINING TIME. U.S., EC, CANADA,  
NORDICS, JAPAN, SWITZERLAND, AUSTRALIA, BRAZIL, INDIA, MEXICO,  
AND HUNGARY PARTICIPATED AS A GROUP IN INFORMAL SESSIONS.

3. SCOPE OF CODE: (A) PROCESS AND PRODUCTION METHODS:

US PROPOSAL TO INCLUDE IN CODE CERTAIN PROCESS AND PRODUCTION  
METHODS DIRECTLY RELATED TO PRODUCT CHARACTERISTICS PROMPTED  
SERIOUS DISCUSSION. EC (SCHLOSSER) POINTED OUT APPLICABILITY  
OF THIS CONCEPT TO PHARMACEUTICAL AND CERTAIN INDUSTRIAL PRODUCTS  
AS WELL AS AGRICULTURAL PRODUCTS. MEXICO (DELGADO) ASSERTED  
THAT CODE COVERAGE OF THIS CONCEPT OF HIGH IMPORTANCE TO  
DEVELOPING COUNTRIES. ALTHOUGH DELS COULD NOT AGREE TO U.S.  
SUGGESTED LANGUAGE, THEY DID TAKE MAJOR STEP BY AGREEING TO  
RECORD IN THE POINTS FOR THE RECORD THAT A WAY SHOULD BE FOUND  
TO ENSURE THAT OBLIGATIONS OF THE CODE ARE NOT CIRCUMVENTED BY  
FORMULATION OF TECHNICAL REGULATIONS AND STANDARDS IN TERMS  
OF PROCESSES AND PRODUCTION METHODS RATHER THAN IN TERMS OF  
CHARACTERISTICS OR PERFORMANCE OF A PRODUCT. (B) PATENTS,  
COPYRIGHTS, ETC.: NORDICS (BERHOLM) POINTED OUT THAT THE  
PURPOSE OF CANADIAN PROPOSAL TO EXCLUDE "PATENTS, COPYRIGHTS,  
TRADEMARKS, CERTIFICATION MARKS, AND REGISTERED INDUSTRIAL DESIGNS  
BY THEMSELVES" FROM THE CODE IS ACCOMPLISHED BY DEFINITIONS.  
CANADA (DENIS) AGREED WITH BERGHOLM AND U.S. (KELLY) INTER-  
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PRETATION THAT IF A PATENT, ETC. WERE REFERRED TO IN A STANDARD  
OR TECHNICAL REGULATION, USE OF SUCHPATENTS WOULD BE SUBJECT TO  
CODE'S PROVISIONS. EC CLAIMED ISSUE MERITS MORE CONSIDERATION  
AND CANADA RETAINED PROPOSAL. (C) GOVERNMENT PROCUREMENT: IN  
PRIVATE CONVERSATION CANADIANS AGREED WITH U.S. PROPOSAL TO EX-  
CLUE GOVERNMENT PURCHASING SPECIFICATIONS FROM STANDARDS CODE  
SINCE THEY ARE NOW COVERED IN DRAFT GOVERNMENT PROCUREMENT  
CODE BEING DEVELOPED INFORMALLY AMONG DC'S. INSUFFICIENT TIME  
WAS AVAILABLE TO PURSUE ISSUE FURTHER IN INFORMAL OR FORMAL  
SESSIONS.

4. GOVERNMENT STANDARDS: THE EC PROPOSAL THAT ADHERENTS  
SHOULD ACCEPT AN ABSOLUTE OBLIGATION WITH RESPECT TO VOLUNTARY  
STANDARDS PROMULGATED BY CENTRAL GOVERNMENT BODIES RECEIVED  
SUPPORT FROM U.S., CANADA, SWEDEN (STAHLBERG), SOUTH AFRICA,  
AND INDIA, WHILE JAPAN (TAMORI) CONTINUED TO OPPOSE, RAISING  
BRAODER ISSUE OF BALANCE OF OBLIGATIONS THROUGH CODE.

5. CODE TEXT: A LARGE MEASURE OF AGREEMENT WAS REACHED  
ON A NUMBER OF DRAFTING IMPROVEMENTS. NORDICS INTRO-  
DUCED REVISIONS OF PARA 2(E) REGARDING CENTRAL GOVERNMENT  
PUBLICATION AND NOTIFICATION OF DRAFT TECHNICAL REGULATIONS, DELETING

NOTIFICATION PROCEDURES,  
CITING PRACTICAL DIFFICULTIES THEY HAVE ENCOUNTERED IN SIMILAR  
EFTA PROCEDURES. ALTHOUGH EC AGREED WITH NORDIC  
SUGGESTION, PROPOSAL MET STRONG RESISTANCE FROM U.S., JAPAN,  
AND LDC'S AND WAS FINALLY WITHDRAWN, ALTHOUGH NORDICS AND EC  
REGISTERED RESERVATION ON THE NOTIFICATION PROCEDURES. THERE  
WAS ALSO WIDE ACCEPTANCE OF NORDIC SUGGESTION FOR REDRAFT OF  
PARA 4(E) CONCERNING PUBLICATION OF DRAFT STANDARDS, AND THE  
DELETION OF REDUNDANT PROVISIONS IN SECTION 5 REGARDING TEST  
METHODS AND ADMINISTRATIVE PROCEDURES WITH THE INCORPORATION  
OF SUBSTANTIVE PROVISIONS CONCERNING FORMULATION AND  
ACCEPTANCE OF TEST METHODS (PARA 5(D) AND 5(E)) NOT COVERED  
ELSEWHERE IN THE CODE IN SECTION 6. NO OBJECTIONS RAISED TO  
AUSTRALIAN (SPENCER) REVISION FOR AN ABBREIATED PARA 3 DEALING  
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WITH OBLIGATIONS OF LOCAL GOVERNMENTS ON TECHNICAL REGULATIONS,  
BUT THE JAPANESE MAINTAINED THEIR PROPOSAL FOR ADHERENTS TO  
ASSUME A FIRST LEVEL OF OBLIGATION TO ENSURE LOCAL GOVERNMENT  
COMPLIANCE WITH THE CODE. ON U.S. PROPOSAL TO ESTABLISH EXAMPLES  
OF CIRCUMSTANCES IN WHICH INTERNATIONAL STANDARDS MAY BE  
INAPPROPRIATE FOR NATIONAL USE, PARTICIPANTS AGREED TO INSERT  
AN ILLUSTRATIVE LIST IN THE POINTS FOR THE RECORD. SINCE THE  
ABOVE REVISIONS WERE WORKED OUT AT INFORMAL SESSIONS AND  
PRESENTED TO SUBGROUP ON FINAL DAY, WILLIAMS STATED THAT THEY  
WOULD BE ADDED TO DRAFT CODE UNLESS ANY DELEGATION  
RAISED AN OBJECTION WITHIN ONE MONTH.

6. LEVELS OF OBLIGATIONS: AT INFORMAL SESSIONS, THERE WAS  
A BRIEF DISCUSSION OF THE LEVELS OF OBLIGATIONS BETWEEN CENTRAL  
GOVERNMENT AND LOCAL GOVERNMENTS IN FEDERAL SYSTEMS. THE SWISS  
(LEMPEN) INDICATED THEY PLANNED TO SUBMIT A STANDARDS CODE AT  
THE NATIONAL LEVEL BASED ON THE DRAFT GATT STANDARDS CODE IN  
WHICH CANTONS WOULD ACCEPT AN ABSOLUTE OBLIGATION VIS-A-VIS  
THE CENTRAL GOVERNMENT TO FOLLOW THE CODES PROVISIONS.  
CANADA STATED THAT IT WAS LOOKING AT THE POSSIBILITY OF A  
SIMILAR ARRANGEMENT.

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INFO OCT-01 STRE-00 ISO-00 FEA-01 AGRE-00 CEA-01  
CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-07  
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SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01  
XMB-02 OPIC-03 OIC-02 AF-10 ARA-10 EA-10 EUR-12  
NEA-10 IO-13 /148 W  
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7. RELATIONSHIP OF GATT TO CODE: THROUGHOUT DISCUSSIONS, SEVERAL REFERENCES WERE MADE TO THE RELATIONSHIP OF THE CODE TO GATT RIGHTS AND OBLIGATIONS ON TOPICS SUCH AS BEST EFFORTS OF CENTRAL VIS-A-VIS LOCAL GOVERNMENTS, TREATMENT OF CONFIDENTIAL INFORMATION, AND EMERGENCY ESCAPE CALUSES. AUSTRALIA ASSERTED THAT DRAFT CODE WOULD CLEARLY APPLY EXCEPT WHEN IN CONFLICT WITH GATT. U.S. STATED THAT A POSITIVE STATEMENT NECESSARY TO ESTABLISH PRECEDENCE OF CODE OBLIGATIONS OVER THOSE IN GATT, WHILE EC AND CANADA SAID TOO EARLY TO DECIDE THE ISSUE.

8. SPECIAL AND DIFFERENTIAL TREATMENT: BRAZIL (MEDEIROS) TABLED A SIGNIFICANT NEW PROPOSAL FOR S&D FOR LDC'S, STATING THAT PROPOSAL IS IN ADDITION TO SUBSTANTIVE POINTS FOR LDC'S ALREADY IN DRAFT CODE.  
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PROPOSAL INCLUDES, AMONG OTHER ELEMENTS, MANDATORY OBLIGATION FOR DC'S TO (A) ACCORD HIGH PRIORITY TO TRANSFER OF TECHNOLOGY TO LDC'S, (B) PROVIDE LDC'S WITH ALL INFORMATION ON PREPARATION AND APPLICATION OF TECHNICAL REGULATIONS, STANDARDS, TEST METHODS, AND CERTIFICATION SYSTEMS, AND (C) GIVE PRIORITY ATTENTION TO LDC'S FACING BARRIERS TO TRADE. FURTHERMORE, ADHERENTS WOULD RECOGNIZE THAT LDC TECHNOLOGICAL CONDITIONS JUSTIFY THEIR ACCEPTANCE OF TECHNICAL REGULATIONS AIMED AT PRESERVING INDIGENOUS TECHNOLOGY AND THAT LDC'S SHOULD NOT BE COMPELLED TO ADOPT STANDARDS INCOMPATIBLE WITH THEIR DEVELOPMENT, FINANCIAL AND

TRADE NEEDS, MEDEIROS URGED SUBGROUP TO USE NEW PROPOSAL AS BASIS FOR NEGOTIATIONS, WARNING THAT ACCEPTANCE OR REFUSAL IS DIFFERENCE BETWEEN A GOOD AND BAD CODE FOR LDC'S IN DETERMINING WHETHER TO ADHERE TO CODE PROVISIONS.

9. SWITZERLAND WAS JOINED BY THE NORDICS AND U.S. IN THE OBSERVATION THAT S&D PROVISION FOR LDC'S SHOULD TAKE INTO ACCOUNT A DYNAMIC ELEMENT TO COVER SITUATIONS WHERE LDC'S REACH A LEVEL OF ECONOMIC DEVELOPMENT, AT LEAST IN CERTAIN SECTORS, COMPARABLE TO THAT OF A DC. IN THIS REGARD, THE NORDICS AND U.S. POINTED TO THE FACT THAT SOME LDC'S HAVE ADVANCED STANDARDS ORGANIZATIONS. THE NORDICS STATED THAT MANY PROVISIONS DUPLICATED THOSE ALREADY CONTAINED IN THE DRAFT CODE WHILE THE U.S. QUESTIONED WHETHER SUCH SWEEPING OBLIGATIONS WERE IN ACCORD WITH THE OBJECTIVES OF THE CODE TO DEAL WITH TRADE OBSTACLES, POINTING TO PROGRAMS IN OTHER INTERNATIONAL ORGANIZATIONS BETTER EQUIPED TO HANDLE TECHNICAL ASSISTANCE, FUNDING AND TECHNOLOGY TRANSFER. U.S. SUGGESTED THAT THESE ORGANIZATIONS BE ENCOURAGED

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IN THEIR WORK WITH LDC'S RATHER THAN HAVING A GATT TRADE GROUP GET IN OVER THEIR HEADS. CAUTIOUS EC STATEMENT APPEARED TO SUPPORT THESE VIEWS. MALAYSIA, INDIA, MEXICO, ANDEANS, ROMANIA, NIGERIA, JAMAICA, EGYPT, AND SENEGAL SUPPORTED THE BRAZILIAN EFFORT. INDIA (HEMRAJANI) DECLARED THAT "GRADUATION IS OUT OF THE QUESTION" AND WAS JOINED BY BRAZIL IN POINTING OUT PRACTICAL DIFFICULTIES (I.E., USE OF SUBJECTIVE CRITERIA) TO DETERMINE GRADUATION. MEXICO STRESSED THAT THE BRAZILIAN PROPOSAL IS IN ADDITION TO EXISTING LDC PROPOSALS, AND MALAYSIA REITERATED ITS PROPOSAL FOR A FUND WHICH IT SAID INDIA, SINGAPORE, THAILAND, INDONESIA, AND PHILIPPINES ALSO SUPPORT. LACK OF JAPANESE, CANADA, AND AUSTRALIAN PARTICIPATION IN DISCUSSION WAS OBSERVED BY BRAZIL.

10. QUARANTINE SYSTEMS: IN SHORT INTERVENTION, AUSTRALIA STATED THAT IN ITS VIEW, ONE OF THE MAJOR OBJECTIVES OF DRAFT CODE IS THE HARMONIZATION OF NATIONAL STANDARDS, A PROCESS WHICH IS NOT FEASIBLE OR PRACTICAL FOR QUARANTINE SYSTEMS. THEREFORE, IT HAS RESERVATIONS THAT SUCH SYSTEMS SHOULD BE COVERED BY THE CODE. AUSTRALIA SUGGESTED, HOWEVER, THAT AN EXAMINATION OF ACTIVITIES OF OTHER INTERNATIONAL ORGANIZATIONS IN THIS FIELD (E.G., CODEX, INTERNATIONAL PLANT PROTECTION CONVENTION) IS NEEDED TO DETERMINE IF THEY DEAL WITH TRADE PROBLEMS, AND IF THERE IS A NEED FOR FURTHER

DISCIPLINE IN THIS AREA. EC POINTED OUT THAT QUARANTINE SYSTEMS ALSO APPLY TO INDUSTRIAL PRODUCTS. SWITZERLAND OPINED THAT QUARANTINE SYSTEMS ARE COVERED BY CODE AND SPECIFIC AUSTRALIAN PROBLEMS ON THIS ISSUE SHOULD BE DISCUSSED.

11. FUTURE CORK PROGRAM: PARTICIPANTS AGREED THAT PROGRESS MORE LIKELY TO BE ACHIEVED IN INFORMAL WORKING GROUPS RATHER THAN FORMAL MEETINGS. WHILE LIMITED OFFICIAL USE

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DATE OF NEXT FORMAL SUBGROUP MEETING TO BE SET BY THE GATT CHAIRMAN IN CONSULTATION WITH DELEGATIONS, AT CLOSING OF PLENARY SESSION, WILLIAMS SUGGESTED THAT IN THE INTERIM INFORMAL CONSULTATIONS SHOULD PROCEED. AT INFORMAL SESSION, PARTICIPANTS TENTATIVELY AGREED TO MEET INFORMALLY ON NOVEMBER 28. LATENESS OF DATE OF NEXT INFORMAL DRAFTING SESSION UNFORTUNATELY DETERMINED BY SCHLOSSER'S AVAILABILITY, WHO IS LOATH TO GIVE UP RESPONSIBILITY FOR DETAILED NEGOTIATIONS ON CODE. TOPICS SUGGESTED FOR DISCUSSION INCLUDE SCOPE OF THE CODE, EMERGENCY ESCAPE CALUSE (PARA 2(F)), RETROACTIVITY, LEVELS OF OBLIGATIONS, LINK BETWEEN CODE AND GATT, AND SPECIAL AND DIFFERENTIAL TREATMENT.

12. COMMENT: THE INFORMAL MEETINGS PROVED TO BE A USEFUL METHOD FOR NEGOTIATIONS ON STANDARDS CODE. HOWEVER, DIFFICULTIES WERE ENCOUNTERED WHEN RESULTS OF INFORMAL SESSIONS WERE PRESENTED AT PLENARY MEETING DUE TO MALAYSIAN AND OTHER LDC RELUCTANCE TO ACCEPT RESULTS. END COMMENT.

13. DRAFTED BY WALLAR.MCDONALD

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## Message Attributes

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**TAGS:** ETRD  
**To:** STATE  
**Type:** TE  
**vdkvgwkey:** odbc://SAS/SAS.dbo.SAS\_Docs/b32e4a4b-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009